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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/033,832 | 03/03/1998 | WALTER W. MOSHER JR. | PREDYN-42891 | 2572 |

7590 09/22/2004

Scott W. Kelley
6320 Canoga Avenue, Suite 1650
Woodland Hills, CA 91367

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| EXAMINER |
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GREEN, BRIAN

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| ART UNIT | PAPER NUMBER |
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3611

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|---|
| Office Action Summary | Application No. 09/033,832 | Applicant(s) MOSHER ET AL. | |
| | Examiner Brian K. Green | Art Unit 3611 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30,32,34-38,41,43 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30,32,34-38,41,43,44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

The indicated allowability of claims 33,40,41,43, and 44 has been withdrawn in view of the new interpretation of the claim language “carried by”. As broadly defined, an antenna that is formed as part of the circuit is considered to be “carried by” the band. Further, the applicant discloses in the specification on page 8, lines 14-19, that the antenna does not have to be directly attached to the band. The antenna can be part of the RFID module. The applicant fails to disclose any advantage to attaching the antenna directly to the band.

Claim Rejections - 35 USC § 112

Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 36, line 2, “an antenna” is confusing since it is not clear whether this is the same antenna defined in claim 30 or is an additional antenna.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30,32,34,35,36, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Jong (U.S. Patent No. 4,612,719) in view of Hayes (U.S. Patent No. 4,718,374).

de Jong shows in figures 1-3 a disposable attachment means (6), a reusable securement means (3,4,7,8), a detection unit (2) embedded within the securement means, and each of the extremities of the attachment means pass through at least one opening (see figures 1 and 3) and the securement means includes a fastening element (10) engageable with the fastening opening. de Jong shows in figure 9 that the strap includes openings (the opening formed by the loop which receives members 90) in each end of the strap and includes fastening elements (90,90) received within the openings. de Jong discloses in column 2, lines 55-57 the idea of embedding the detection unit. De Jong does not disclose the idea of making the detection unit in the form of a radio frequency identification circuit and providing an antenna. Hayes shows in figures 1-5 a securement means comprising a body (22) having a radio frequency identification circuit device (60) embedded therein and further including an antenna attached to the chip device, see column 5, lines 36-40. In view of the teachings of Hayes it would have been obvious to one in the art to modify de Jong by replacing the detection unit with a radio frequency identification device which includes an antenna since this would allow information from the responder to be sent out and received in an easier and faster manner. The antenna is considered to be "carried" by the strap since the strap "carries" the reusable securement means (3,4,7,8) and the detection unit/radio frequency identification device. The structure used to secure the antenna to the radio frequency device is considered to be the coupling means. In regard to claim 34, the fastening element 10 or 90 is considered to be a boss.

Claims 30,34, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al. (U.S. Patent No. 4,598,275) in view of Hayes (U.S. Patent No. 4,718,374).

Ross et al. shows in figures 1-6 a disposable strap (24), a reusable securement means (26), and a circuit identification device (20) embedded within the strap. The strip includes a plurality of openings in one end (see figure 1) which can receive a fastening element (the pin shown in figure 1) therein. The circuit identification device is considered to be "carried" by the securement means since it is attached to the strap which is carried by the securement means. Ross et al. shows in figure 6 that the circuit identification device (20) includes two antennas (96,106) which are "carried" by the strap. Ross et al. does not disclose whether the device (20) is a radio frequency identification circuit. Hayes shows in figures 1-5 a securement means comprising a body (22) having a radio frequency identification circuit device (60) embedded therein and further including an antenna attached to the chip device, see column 5, lines 36-40. In view of the teachings of Hayes it would have been obvious to one in the art to modify Ross et al. by making the circuit identification device in the form of a radio frequency identification device since this would allow information from the responder to be sent out and received in a better manner. In regard to claim 34, the fastening element (the pin in figure 1) is considered to be a boss located internally of the securement means and the securement means includes an opening therein for receiving the strap.

Claims 30,32,34,35, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen (U.S. Patent No. 5,479,797) in view of Hayes (U.S. Patent No. 4,718,374) and de Jong (U.S. Patent No. 4,612,719).

Petersen shows in figures 1-6 a disposable attachment means (20) and a reusable securement means (10). The extremities of the attachment means pass through openings in the securement means and overlap, see figures 4 and 5. Petersen shows in figures 2 and 3 that one end of the strap includes an opening (26) for receiving a mounting boss (32) therein. Petersen does not disclose attaching a radio frequency identification device to the securing means and an antenna to the strap. Hayes shows in figures 1-5 a securement means comprising a body (22) having a radio frequency identification circuit device (60) embedded therein and further including an antenna attached to the chip device, see column 5, lines 36-40. De Jong shows in figure 1 the idea of embedding a detection device (2) within a securing device. In view of the teachings of Hayes and de Jong it would have been obvious to one in the art to modify Petersen by attaching an RFID to the securing means since this would allow information to be stored on the band, the information changed as desired, and the information transmitted to a distant location in an easier and faster manner. The antenna is considered to be "carried" by the strap since the strap "carries" the reusable securement means (3,4,7,8) and the radio frequency identification device. The structure used to secure the antenna to the radio frequency device is considered to be the coupling means. In regard to claim 35, de Jong shows in figure 9 that the strap includes openings (the opening formed by the loop which receives members 90) in each end of the strap. In view of the teachings of de Jong it would have been obvious to one in the art to modify Petersen by using the strap and securement means taught by de Jong in figure 9 since this would create a safer band, i.e. when the band is subjected to a force above a determined level, the strap is released, see column 2, lines 18-25.

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Claims 30,35, 37,41,43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacDonald (U.S. Patent No. 5,323,554) in view of Ross et al. (U.S. Patent No. 4,598,275) and Hayes (U.S. Patent No. 4,718,374).

MacDonald shows in figures 6-10 a disposable tubular band (14) and a reusable securement means (40). The opposite ends of the strap (14) have openings which receive the opposite ends of the securement means (40). MacDonald does not disclose attaching a radio frequency identification device to the securing means and an antenna to the strap. Ross et al. shows in figures 1-2 a strap having an identification circuit device (20) embedded therein and an antenna (96,106) attached to the circuit device. Hayes shows in figures 1-5 a securement means comprising a body (22) having a radio frequency identification circuit device (60) embedded therein and further including an antenna attached to the chip device, see column 5, lines 36-40. In view of the teachings of Ross et al. and de Hayes it would have been obvious to one in the art to modify MacDonald by attaching an RFID to the securing means since this would allow information to be stored on the band, the information changed as desired, and the information transmitted to a distant location in an easier and faster manner. The antenna is considered to be "carried" by the strap since the strap "carries" the reusable securement means (40) and the radio frequency identification device. The structure used to secure the antenna to the radio frequency device is considered to be the coupling means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011. The examiner can normally be reached on M-F 7am-3:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
Sept. 16, 2004